



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/173323

PRELIMINARY RECITALS

Pursuant to a petition filed March 29, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 26, 2016, at Milwaukee, Wisconsin. The record was held open for submission of paystubs and tax information. The tax information was sent to the DHA and the paystubs to the agency but Division of Hearings and Appeals obtained them from the agency.

The issue for determination is whether Petitioner's BadgerCare+ was correctly discontinued due to income in excess BadgerCare+ income limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

||

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.

2. Petitioner filed this appeal to contest a discontinuance of her BadgerCare+ effective April 1, 2016.
3. Petitioner's BadgerCare+ eligibility was reviewed in March 2016 and 30 days of payroll information was submitted – Petitioner's 2 checks from February 2016.
4. Petitioner's BadgerCare+ group size is 2.
5. When the agency processed Petitioner's last month of income information it determined that her monthly income was \$1365.34. This consists of two checks showing gross income of \$669.80 and \$695.54. This led to the discontinuance of BadgerCare+ because Petitioner's income was in excess of BadgerCare+ income limits.

DISCUSSION

BadgerCare+ is Wisconsin's Medicaid program for those who are not elderly or disabled. Effective April 1, 2014, Wisconsin state law changed and lowered the amount of adjusted gross income a household can have and still be eligible for benefits to 100% of the Federal Poverty Level for adults and 300% for children. *Wis. Stat. § 49.471(4)(a)*. This change was to be effective January 1, 2014 but was held off until April 1 to assure coordination with other changes in healthcare options; especially the Affordable Care Act.

100% of the Federal Poverty Level for a 2 person household was \$1335.00 per month as of February 1, 2016. *BadgerCare+ Eligibility Handbook (BEH)*, §50.1. Further, if income fluctuates the income is averaged. *BEH*, §16.6.

Here the 30 day income information showed Petitioner to be over the BC+ income limit. Nonetheless, Petitioner testified that her income fluctuates. As an example, she stated that in the week of the hearing and the week before the hearing Petitioner worked only 20 hours each week at a rate of \$14.59 per hour. This totals only \$583.60 for those 2 weeks or \$1167 for a month. She also estimated annual income for 2015 at \$15000 which is only \$1250.00 per month.

While her estimate was off a bit, Petitioner's tax information for 2015 confirms her testimony; she earned \$15,944.59 in 2015. This is \$1328 per month. Unfortunately, the additional paystub submission was scanned and the quality of the scans so poor that they virtually illegible. While I cannot be certain, it does appear that through May 30, 2016 Petitioner's income is less than the \$1335 per month income limit; certainly suggestive enough to warrant another determination of eligibility.

Based on this information I am sending this back to the agency. Petitioner and the agency will have to arrange for submission of better paystub copies and the agency will have to average Petitioner's income and make a new BadgerCare+ eligibility determination.

CONCLUSIONS OF LAW

That the available evidence does indicate that Petitioner's income fluctuates and a new determination of BadgerCare+ eligibility be made by averaging Petitioner's income.

THEREFORE, it is

ORDERED

That this appeal is remanded to the agency with instructions to contact Petitioner to request readable copies of Petitioner's paycheck stubs and, if they are provided, the agency must make a new BadgerCare+ eligibility determination based on averaged income. The agency must begin this process within 10 days. If Petitioner does not respond to the agency within 10 days of its request, this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 30th day of June, 2016

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 30, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability